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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,845	07/24/2001	Wolfgang Schnell	7101/0J637	3895

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EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/911,845</b>	Applicant(s) <b>Schnell et al</b>
	Examiner <b>Charles Boyer</b>	Art Unit <b>1751</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on Jul 24, 2001
- 2a)  This action is **FINAL**.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims**
- 4)  Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-14 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: In line 3, "of" is misspelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 13 provides for the use of a mineral, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex*

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*parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Goedhart et al, US 4,591,448.

Goedhart et al teach a layered clay in dishwashing applications (see abstract). An example of such a composition comprises 5% Laponite, which appears to be the preferred sheet silicate of the present claims, and 1% nonionic surfactant (col. 3, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. With respect to polyethylene glycol and propylene glycol, the examiner notes these are optional components in the claims.

7. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambremont et al, US 5,707,952.

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Lambremont et al teach thickened hard surface cleaners (see abstract). An example of such a composition comprises 2% Laponite, which appears to be the preferred sheet silicate of the present claims, and 2.25% ethoxylated alcohol nonionic surfactant (col. 9, example 1C). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

8. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dixit et al, US 5,468,411.

Dixit et al teach powdered dishwashing compositions (see abstract). An example of such a composition comprises 3% Laponite, which appears to be the preferred sheet silicate of the present claims, and 4.5% ethoxylated alcohol nonionic surfactant (col. 21, table VIIIB). As this reference meets all material limitations of the claims at hand, the reference is anticipatory. The examiner recognizes that this example is taught by the reference as being an inferior composition, nevertheless, as the components are identical to applicants' presently claimed composition, the examiner maintains the anticipatory requirements are satisfied.

9. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Goedhart et al, US 4,597,886.

Goedhart et al teach a layered clay in dishwashing applications (see abstract). An example of such a composition comprises 5% Laponite, which appears to be the preferred sheet silicate of the present claims, and 1.5% ethoxylated/propoxylated alcohol nonionic surfactant (col. 3,

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example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

10. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rayner, US 3,966,432.

Rayner teaches liquid abrasives with clay suspending agents (see abstract). An example of such a composition comprises 1.1% Laponite, which appears to be the preferred sheet silicate of the present claims, and 4.45% ethoxylated alcohol nonionic surfactant (col. 3, example 5). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 9:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310 for non-after-final amendments and (703) 872-9311 for after-final amendments.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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Charles Boyer

A handwritten signature in black ink that reads "Charles Boyer". The signature is fluid and cursive, with "Charles" on the top line and "Boyer" on the bottom line.

June 2, 2003